

Decision No. R04-0088

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03F-307R

CITY OF GREELEY,

COMPLAINANT,

V.

OMNITRAX, INC., AND GREAT WESTERN RAILWAY OF COLORADO, LLC,

RESPONDENTS.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
WILLIAM J. FRITZEL
GRANTING JOINT MOTION
FOR DISMISSAL WITH PREJUDICE
AND CLOSING DOCKET**

Mailed Date: January 23, 2004

I. STATEMENT, FINDINGS, AND CONCLUSIONS

1. On July 11, 2003, the City of Greeley (Complainant) filed a complaint naming OmniTRAX, Inc., and Great Western Railway of Colorado, LLC as Respondents.
2. On July 16, 2003, the Commission issued an Order to Satisfy or Answer.
3. On July 18, 2003, Staff of the Colorado Public Utilities Commission filed an Entry of Appearance and Notice of Intervention.
4. The hearing is currently scheduled for January 29, 2004.
5. On January 21, 2004, Complainant and Respondents filed a Joint Motion for Dismissal with Prejudice.

6. The joint motion will be granted.

7. Pursuant to § 40-6-109(2), C.R.S., it is recommended that the Commission enter the following order.

II. ORDER

A. The Commission Orders That:

1. The Joint Motion for Dismissal with Prejudice filed on January 21, 2004 by Complainant, City of Greeley and Respondents, OmniTRAX, Inc., and Great Western Railway of Colorado, LLC is granted.

2. The complaint of the City of Greeley v. OmniTRAX, Inc., and Great Western Railway of Colorado, LLC is dismissed with prejudice.

3. Docket No. 03F-307R is closed.

4. The hearing scheduled for January 29, 2004 is vacated.

5. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

6. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

7. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Administrative Law Judge